

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ROBERT STOCK and MARTIN RIFKIN,
on behalf of themselves and all other employees similarly situated,

Plaintiffs,

- vs -

XEROX CORPORATION,

Defendant.

**Civil Action No.
16-CV-6256W(P)**

**SECOND SUPPLEMENTAL TO UNOPPOSED MOTION FOR SETTLEMENT
APPROVAL**

Pursuant to the Honorable Elizabeth A. Wolford's order, Plaintiffs Robert Stock and Martin Rifkin, on behalf of themselves and all others similarly situated, respectfully submit this second supplement to their Unopposed Motion for Settlement Approval and ask the Court for review and approval of the Settlement Agreement between the parties.

On December 22, 2020, the Honorable Elizabeth A. Wolford noted discrepancies between Plaintiffs' original submission in support of settlement approval and the supplement to that submission. (Doc. No. 85). Specifically, the amount of attorneys' fees identified in the public submission did not match with the amount of the fees on the detailed listing of activities which were sent to the Court's chambers for *en camera* inspection. The Court also noted an uncorrected error in the supplement (Doc. No. 84) which further complicated review of these materials by the Court.

The corrected section of Doc. No. 84 should read

D. Plaintiff's Attorney's Fees Evidence

Plaintiffs' Counsel has expended over 950 hours investigating and subsequently litigating this matter since October 2015. Using Plaintiffs' Counsel's hourly rates, Plaintiffs' Counsel's attorneys' fees are approximately \$374,502. Ex. 1. Although former attorneys and paralegals worked on the file, the bulk of the work was done by Elizabeth Beck (5th year associate) and J. Derek Braziel (25 year partner). Beck worked approximately 442.78 hours on the case at a rate of \$350 for a total amount of \$154,973. Ex. 1. Braziel worked 243.05 hours at a rate of \$750 for a total amount of \$182,287.50. Ex. 1. Plaintiffs' counsels' standard professional services agreement includes a contingency fee of 40% plus costs. *Id.* Xerox agreed to not contest an award up to 40%, which would have been \$500,000. However, the fees set forth in the Settlement Agreement contemplates an award of attorneys at 35% which was reduced voluntarily by Plaintiff's counsel. That award totals \$457,500.

Respectfully submitted,

LEE & BRAZIEL, L.L.P.

/s/ J. Derek Braziel

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I certify that on January 4, 2021 a copy the foregoing was served via the Court's ECF/PACER filing system on the following attorneys for Defendant:

Kimberly Harding
Stephen J. Jones
Todd Shinaman

/s/ Elizabeth M. Beck
ELIZABETH M. BECK